

REMARKS

This amendment is offered in response to the Office Action of December 17, 2002.

The Office Action rejected Claim 1 under 35 U.S.C. §102(b) as being anticipated by the Hustad reference (U.S. Patent No. 5,456,928) or the Simonsen reference (U.S. Patent No. 5,711,609). Both the Hustad and Simonsen references disclose a tear-away header formed by two perforated or similar lines formed in the web material over the zipper. This is quite different from newly amended Claim 1 which recites "said segment extending over said profiles' interlocking members to form a joinder with an opposite one of said segments, said joinder providing a frangible connection to provide a tamper-evident feature for said reclosable package".

It is therefore respectfully submitted that Claim 1 is patentable over the Hustad reference and over the Simonsen reference.

The Office Action rejected Claims 1 and 2 under 35 U.S.C. §102(e) as being anticipated by the Van Erden reference (U.S. Patent No. 6,212,857). The Van Erden reference discloses the portions 75 of the zipper flanges including perforations 30 to form a structure similar to a tear-away header. Likewise, it appears that the portions of the front and back walls 64, 66 extending above the zipper and surrounding the portions 75 of the zipper flanges (terminating in seal 58) are likewise torn off by the consumer when opening the bag (see col. 4, lines 57, 58 of the Van Erden reference, "To initially open the sealed package, the user tears off the top of the package ...". This is quite different from newly amended Claim 1 which recites "said segment extending over said profiles' interlocking members to form a joinder with an opposite one of said segments, said joinder providing a frangible connection to provide a tamper-evident feature for said reclosable package".

It is therefore respectfully submitted that Claims 1 and 2 are patentable over the Van Erden reference.

re: not addressed.

The Office Action rejected Claims 1-4 under 35 U.S.C. §103(a) as being obvious over the Thomas reference (U.S. Patent No. 5,713,669). The Thomas reference discloses a separate portion of web material (first and second upstanding panels 36, 38) which are separate from the web of the sides of the bag and separate from the flanges of the zippers. This is quite different from presently pending Claim 1 which recites "at least one of said walls and flange portions forming a wall segment beyond the attachment line of said wall to its associated flange portion ...".

It is therefore respectfully submitted that Claims 1-4 are patentable over the Thomas reference.

refs. argued separately

The Office Action rejected Claims 1-4 under 35 U.S.C. §103(a) as being obvious over the Ausnit reference (U.S. Patent No. 6,131,369) in view of the Thomas reference. Again, it appears that the Ausnit reference discloses a tear-away header (see the two perforations 54 on the lower portion of Figure 5, also see col. 3, lines 45-46) while the Thomas reference discloses a separate portion of web material (first and second upstanding panels 36, 38) which are separate from the web of the sides of the bag and separate from the flanges of the zippers.

It is therefore respectfully submitted that Claims 1-4 are patentable over the Ausnit reference in view of the Thomas reference.

For all of the reasons above, it is respectfully submitted that all of the presently pending claims are in immediate condition for allowance. The Examiner is respectfully requested to

withdraw the rejections of the claims, to allow the claims, and to pass this application to early issue.

Respectfully submitted,



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VERSION WITH MARKINGS TO SHOW CHANGES MADE

In the Claims:

Please amend Claim 1 as follows:

1. (Amended) A reclosable package having a top, bottom, and sides, said package comprising:

a first wall and a second wall opposite to said first wall;

a first zipper profile having a first interlocking member and a first flange portion, said first flange portion being attached to said first wall along a line extending substantially from side to side of said package;

a second zipper profile having a second interlocking member engageable with said first interlocking member and a second flange portion, said second flange being attached to said second wall along a line extending substantially from side to side of said package; and

at least one of said walls and flange portions forming a wall segment beyond the attachment line of said wall to its associated flange portion, said segment extending over said profiles' interlocking members to [a frangible connection] form a joinder with an opposite one of said [walls] segments, said joinder providing a frangible connection to provide a tamper-evident feature for said reclosable package.